

Origins of the WHO Framework Convention on Tobacco Control

The World Health Organization (WHO) Framework Convention on Tobacco Control originated in 1993 with a decision by Ruth Roemer and Allyn Taylor to apply to tobacco control Taylor's idea that the WHO should utilize its constitutional authority to develop international conventions to advance global health. In 1995, Taylor and Ruth Roemer proposed various options to WHO, recommending the framework convention-protocol approach conceptualized by Taylor.

Despite initial resistance by some WHO officials, this approach gained wide acceptance. In 1996, the World Health Assembly voted to proceed with its development. Negotiations by WHO member states led the World Health Assembly in May 2003 to adopt by consensus the WHO Framework Convention on Tobacco Control—the first international treaty adopted under WHO auspices. The treaty formally entered into force for state parties on February 27, 2005. (*Am J Public Health*. 2005;95:936–938. doi:10.2105/AJPH.2003.025908)

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ON FEBRUARY 27, 2005, THE World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC), the first treaty ever adopted under the auspices of WHO, entered into force. This new treaty is the first international legal instrument designed to promote multilateral cooperation and national action to reduce the growth and spread of the global tobacco epidemic. Adopted by consensus by WHO's 192 member states on May 21, 2003, this unprecedented treaty has been signed by 168 states worldwide and is now binding international law for the 57 states that have also ratified the FCTC.

Tobacco use is one of the major public health disasters of the past century. There are more than 1.25 billion smokers in the world today, representing about one third of the world's population aged older than 15 years. Cigarette smoking is one of the largest causes of preventable death worldwide and the leading cause of preventable death in industrialized countries. However, the epidemic of disease and death is rapidly shifting to developing and transitional market economies. At current levels of tobacco consumption, the epidemic is expected to kill about 10 million people per year by 2020, with two thirds of these deaths occurring in developing countries.

PROVISIONS OF THE FRAMEWORK CONVENTION

The WHO FCTC is designed to strengthen national and international coordination to combat the tobacco epidemic. Formally negotiated by WHO member states over a period of 4 years, the treaty incorporates a variety of measures to encourage state parties to curb the growth of tobacco production and use, including some measures that constitute concrete obligations and other commitments that are framed as goals or recommendations. For example, the treaty requires that state parties implement restrictions on advertising, sponsorship, and promotion and implement strong packaging and labeling requirements. The treaty also calls on countries to establish clean indoor air controls and strengthen legislation to combat tobacco smuggling.

Recognizing that price and tax measures are effective in reducing tobacco consumption, particularly among young people, the treaty calls for enacting and implementing tax and price policies on tobacco products that will contribute to the health objectives aimed at reducing tobacco consumption, although the text stops short of firm commitments. Similarly, the treaty also calls for testing, measuring, and regulating the contents and emissions of tobacco products and for effective legislative, executive, and administrative measures re-

quiring manufacturers and importers to disclose to governmental authorities the contents and emissions of tobacco and for governments to provide public disclosure of the toxic constituents and emissions of tobacco products.

The FCTC was designed as a dynamic and incremental approach to international tobacco control, modeled on the framework convention-protocol approach that had been used with some success, particularly in the realm of environmental law. It was anticipated that over time countries will negotiate and conclude protocol agreements—separate treaties—designed to implement the goals of the framework convention.

GENESIS OF THE FRAMEWORK CONVENTION

The idea of an international convention for tobacco control was born at a July 1993 meeting at the UCLA Faculty Center of Ruth Roemer, author of *Legislative Action to Combat the World Tobacco Epidemic*, Milton I. Roemer, professor emeritus, UCLA School of Public Health, and Allyn L. Taylor, then a visiting professor, Whittier University School of Law. Impressed by an article by Taylor in the *American Journal of Law and Medicine* in which she had advocated that WHO utilize its neglected constitutional authority to promote the development and im-

plementation of international law to advance global public health,¹ Ruth Roemer suggested to her the possibility of applying her ideas to develop a specific international regulatory mechanism for tobacco control, a field in which WHO had a strong, established policy (letter from Ruth Roemer to Allyn Taylor, August 18, 1993).

After the first Roemer–Taylor meeting, Ruth Roemer undertook to promote the idea of an international legal approach to tobacco control, both nationally and internationally. In the summer of 1993, she attended the First All-Africa Conference on Tobacco or Health, cochaired by Derek Yach, then with the Medical Research Council of South Africa, and Timothy Stamps, then–minister of health of Zimbabwe, and presented the idea of an international legal approach to tobacco control. Later that year, in October 1993, Roemer visited WHO headquarters in Geneva and discussed the idea with senior staff members of several different WHO departments. Later that month, she met with tobacco control colleagues at the annual meeting of the American Public Health Association and encouraged them to consider the idea. One colleague, Judith Mackay, the director of the Asian Consultancy for Tobacco Control, supported the idea of a tobacco control treaty and later became a key advocate for the convention. Despite an initial lack of enthusiasm from most quarters for the idea of international law for tobacco control, Roemer persisted in promoting the idea around the world.

Subsequently, Taylor developed the idea of the framework convention-protocol approach to tobacco control as part of her doctoral dissertation² and in June 1994 presented the first paper

on this proposed WHO international legal strategy for tobacco control at the annual meeting of the Academic Council of the United Nations System at the Hague.³ At the 9th World Conference on Tobacco or Health in Paris in October 1994, Roemer submitted a resolution urging adoption of an international instrument for tobacco control, and Taylor presented a poster describing the international legal strategy. The resolution, drafted with the help of Mackay, was adopted as one of the first resolutions of the conference.

SUPPORT FROM CANADA AND OTHER MEMBER STATES

Shortly after the Paris conference, Jean Lariviere, a senior medical adviser at Health Canada and a Canadian delegate to the World Health Assembly (WHA), was contacted by a number of Canadians who had attended the world conference and strongly supported the idea of an “international instrument” for tobacco control. With the backing of Jesus Kumate of Mexico, Kimmo Leppo of Finland, and I. A. Mtulia of Tanzania, Lariviere drafted a resolution that was tabled at the 95th WHO executive board meeting in January 1995. Despite some objections, a text was adopted by the executive board (EB95.R9) and later by the WHA (WHA 48.11),⁴ which requested the director general

to report to the 49th World Health Assembly on the feasibility of developing an international instrument, such as guidelines, a declaration or an international convention on tobacco control to be adopted by the United Nations, taking into account existing trade and other conventions and treaties.

Mackay became a key advocate for moving forward action on an international instrument for tobacco control. Two years after the first Roemer–Taylor meeting, in May 1995, Mackay met with Raoul Uranga of the UN Focal Point on Tobacco Control and provided Roemer with a copy of a memorandum from Erik Crispeels entitled “International Measures for the Control of Tobacco: Convention or Code,” dated April 21, 1995 (letter from Judith Mackay, May 3, 1995).

In mid-July 1995, Roemer and Taylor collaborated on a WHO contract to develop a background paper to be delivered by September 8, 1995, on various options for international action on tobacco control to be undertaken by the United Nations in accordance with WHA resolution 48.11.⁴ A detailed outline of the proposed document was delivered to WHO on July 27, 1995, setting forth various options for international legal strategy for tobacco control and recommending the development and implementation of a WHO framework convention on tobacco control and related protocols to promote global cooperation and national action for tobacco control.

INITIAL RESISTANCE TO WHO TOBACCO TREATY

Initially, there was considerable resistance among WHO officials who had access to the outline of the Taylor–Roemer recommendation formally proposing the codification and implementation of binding international law on tobacco control. Further, there was particular resistance to their proposal that such a treaty be developed under the auspices of WHO, an

organization that had never in its almost 50-year history utilized its constitutional authority to develop a treaty on any matter affecting global public health. In a letter to Roemer dated July 28, 1995, a senior WHO official criticized the Taylor–Roemer proposal as “ambitious to a fault,” emphasized that “it is important to be realistic,” and encouraged “revising the outline and preparing the background paper.” In the following weeks, WHO officials strongly recommended that the authors of the proposal reconsider it and encouraged them to recommend either the development of a WHO code of conduct on tobacco control akin to the WHO International Code of Marketing Breast-milk Substitutes, a nonbinding international instrument that could be adopted by WHA as a resolution, or a treaty to be adopted under the auspices of the United Nations. Convinced that development of a nonbinding code of conduct on tobacco control was likely to be ineffective and potentially counterproductive for global tobacco control efforts and that WHO, not the United Nations, was the only appropriate forum for the negotiation of this global public health treaty, Taylor and Roemer retained their original recommendation.

The final manuscript was sent to J. R. Menchaca, WHO’s head of tobacco control, on August 23, 1995. It proposed the development of a WHO framework convention on tobacco control and related protocols and recommended substantive and procedural mechanisms that could be included in the proposed convention to make it an effective instrument of international health policy. The manuscript proposal continued to meet substantial re-

sistance from most WHO officials and was not published or released for distribution by WHO until more than a year later.

WHO EXECUTIVE BOARD VOICES SUPPORT

The WHO director general issued a brief report for the executive board meeting of January 1996, entitled "The Feasibility of an International Instrument for Tobacco Control" (EB97/INF. DOC.4), summarizing the key recommendations of the manuscript.⁵ At its January 1996 meeting, the WHO executive board considered the summary and, despite opposition from the WHO secretariat, the executive board adopted the resolution "An International Framework Convention for Tobacco Control" (EB97.R8). Lariviere served a central role in persuading his member state colleagues on the executive board of the feasibility and necessity of this international regulatory approach to the global tobacco epidemic. The formal resolution calling for a WHO framework convention was cosponsored by Leppo of Finland and John Hurley of Ireland at the urging of Lariviere, as Canada was not on the executive board in 1996. In May 1996, the WHA adopted the resolution for the development of a WHO framework convention on tobacco control and related protocols (WHA49.16)—the first convention to be negotiated under the auspices of the WHO.

PROGRESSION TO TOBACCO TREATY ADOPTION

Despite these early efforts in support of the FCTC, the pro-

posed treaty lacked political support and policy direction at the global level. Not until the election of Gro Harlem Brundtland as director general of WHO was the implementation of the 1996 WHA resolution begun in earnest. Immediately upon taking office in 1998, Brundtland announced her 2 priorities—tobacco control and combating malaria. Under Brundtland's tenure, negotiations of the WHO FCTC were undertaken. Resources were made available to the new Tobacco Free Initiative, headed by Yach, to develop a framework convention on tobacco control. The negotiation of the WHO FCTC gained political momentum and turned into a worldwide public health movement. The tobacco industry, as would be expected, opposed a comprehensive treaty, favoring voluntary agreements and regulation by the market. In a letter dated August 30, 2000, to Gro Harlem Brundtland, director general of WHO, Philip Morris expressed its position on the FCTC.^{6,7} After listing a number of provisions that it would support [minimum age laws and retail access prevention programs to keep cigarettes out of the hands of minors, reasonable marketing restrictions to prohibit targeting minors in tobacco product marketing, uniform methods for testing constituents of tobacco smoke, reasonable public smoking restrictions to minimize environmental tobacco smoke, and so forth], the letter expressed its opposition to increased taxes on tobacco products, limitations on free trade, public smoking bans that fail to provide smoking areas, and "shock" images on health warnings.

The support of the American Public Health Association is an

important part of the early history of the development of the WHO Framework Convention on Tobacco Control. In addition to organizing sessions in 1996 and 1997 that promoted the WHO treaty, Roemer also sponsored and secured critical American Public Health Association resolutions in support of an effective WHO framework convention on tobacco control in 1998 and 2001.^{8,9} Other nongovernmental agencies offered strong support of the convention.

The FCTC has the potential to act as a global complement to regional, national, and local action for tobacco control. Even before the treaty was adopted, while the negotiations were in process, a number of governments took action to strengthen their legislation and programs on tobacco control.¹⁰ The final text of the treaty, as negotiated by WHO member states, neglects to incorporate many mechanisms used in other global framework conventions to encourage state parties to comply with their international legal commitments. Consequently, expanded global awareness and national political commitment will be critical to the successful implementation of this new public health instrument. ■

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A. Taylor and R. Roemer jointly wrote most of the article. J. Lariviere contributed a section and reviewed the article.

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